

**FEDERAL ELECTION COMMISSION**  
**999 E Street, NW**  
**Washington, DC 20463**

**FIRST GENERAL COUNSEL'S REPORT**

MUR 6526

DATE RECEIVED: February 1, 2012

DATE ACTIVATED: April 10, 2012

EXPIRATION OF SOL: June 1, 2014 (earliest)  
February 4, 2016 (latest)

COMPLAINANT: International Association of Heat and Frost  
Insulators and Allied Workers PAC and James P.  
McCourt in his official capacity as treasurer

RESPONDENT: Cora Carper

RELEVANT STATUTES 2 U.S.C. § 432(b)(3)  
AND REGULATIONS: 11 C.F.R. § 102.15

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED:

**I. INTRODUCTION**

The International Association of Heat and Frost Insulators and Allied Workers PAC and James P. McCourt in his official capacity as treasurer (collectively, "AWPAC") filed a Complaint against a former secretary, Cora Carper, (the "Complaint") concerning her unauthorized disbursements of approximately \$500,000 in AWPAC funds. The Complaint alleges that Carper's actions prevented AWPAC from filing accurate disclosure reports with the Commission.

Carper was indicted on November 14, 2012, in the U.S. District Court for the District of Maryland for embezzling funds from AWPAC, a labor union. *United States v. Cora Carper*,

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Case No. 8:12-CR-00593-GLR (Nov. 14, 2012) ("Indictment") (Attach, A). The Indictment charges Carper with embezzling funds from a labor union, a federal crime under 29 U.S.C. § 501(c), but does not allege that Carper violated the Federal Election Campaign Act of 1971, as amended (the "Act"). Nonetheless, the Indictment alleges that Carper made numerous cash deposits into her personal bank accounts after negotiating approximately \$502,586 in unauthorized AWPAC checks payable to cash — a violation of the Act's prohibition on commingling committee and personal funds. Indictment ¶ 8; *see* 2 U.S.C. § 432(b)(3); 11 C.F.R. § 102.15. The government seeks forfeiture of the amount embezzled from the labor union. *See* Indictment at 5.

Based on this information, we recommend that the Commission find reason to believe that Carper knowingly and willfully commingled AWPAC funds with her personal funds in violation of 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15, and enter into pre-probable cause conciliation with Carper.

II. FACTUAL AND LEGAL ANALYSIS<sup>2</sup>

A. Facts

1. AWPAC's Organization and Carper's Role

AWPAC is the separate segregated fund of the International Association of Heat and Frost Insulators and Allied Workers ("Insulators"), a labor organization with approximately 20,000 members throughout the United States and Canada. It makes contributions to both federal and state candidates and is funded by voluntary contributions from members in the United States. The Insulators' headquarters staff consists of two elected officers, President James Grogan and Secretary/Treasurer James McCourt, and about eight employees. Grogan and McCourt frequently travel for union business and are out of the office at least 50% of the time. Before Insulators terminated her employment in 2011, Carper was one of about six clerical employees, and had been employed by the union since 2001.

Carper handled administrative tasks for AWPAC since shortly after she began working for Insulators. Her duties included recording receipts and disbursements in an electronic ledger using financial software, preparing software-generated checks authorized in writing by one of about three union officers, reviewing AWPAC's bank

<sup>2</sup> The facts recited in this Report originate from the Complaint, the Indictment,

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1 statements and reconciling them with the accounting records, and generating reports of  
2 AWPAC's financial activity that she transmitted to counsel who prepared AWPAC's FEC  
3 disclosure reports. Compl. ¶ 4; Copies of  
4 AWPAC's monthly bank statements were also distributed to McCourt and his secretary for  
5 review.

6 AWPAC policy required that someone other than Carper authorize checks drawn on its  
7 accounts, and further required both Grogan and McCourt to sign any such checks.

8 This safeguard could be readily circumvented, however: the  
9 software program used to generate checks included a password-protected feature that enabled  
10 Carper to print checks bearing Grogan and McCourt's signatures.

11 In addition, because they travel frequently, AWPAC maintained ink  
12 stamps accessible to Carper that could be used to reproduce Grogan and McCourt's signatures.  
13 Compl. ¶ 8;

14 2. Carper's Embezzlement Scheme and Commingling of Personal and  
15 Committee Funds

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17  
18 As a result, AWPAC  
19 discharged her in May 2011. Compl. ¶ 4;

20 Following Carper's termination, AWPAC discovered that she had embezzled  
21 approximately \$499,200 between June 2009 and February 2011. Compl. ¶ 5. Based on our

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1 review of the checks AWPAC provided, we identify \$506,200 in total unauthorized  
2 disbursements, slightly more than the figures provided in the Complaint and Indictment.<sup>3</sup>

3 During the course of her scheme, Carper used AWPAC's financial software to generate  
4 more than 300 unauthorized checks bearing McCourt and Grogan's signatures payable to "cash"  
5 or "cash reimbursement." She endorsed the checks apparently by using McCourt's signature  
6 stamp, signing her own name, or both. She then cashed the checks at a PNC Bank branch.

7 Compl. ¶¶ 5, 8; ; see also Compl., Attach. A.

8 AWPAC did not authorize Carper to prepare or cash these checks. Compl. ¶ 6. Carper made  
9 numerous cash deposits into her personal bank accounts after cashing the unauthorized checks.  
10 Indictment ¶ 8.

11  
12 Carper apparently made false entries for some of the checks in the electronic ledger.  
13 Indictment ¶ 8. She also failed to include unauthorized checks in the financial reports she  
14 prepared, which were used to file disclosure reports with the Commission.

15 In addition, check copies attached to the Complaint show that Carper also placed  
16 false printed or handwritten memo entries with descriptions such as "PAC Fund" or "JDC  
17 Genesse Fund" on some of the checks. Indictment ¶ 8; ; Compl.,  
18 Attach. A.

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<sup>3</sup> AWPAC attached copies of most of the checks to the Complaint. Compl., Attach. A. It later provided copies of checks from January and February 2011 that had inadvertently been omitted from the Complaint.

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**B. Legal Analysis**

The Act and Commission regulations require that all funds of a political committee must be "segregated from and may not be commingled with the personal funds of any individual."

2 U.S.C. § 432(b)(3); 11 C.F.R. § 102.15. A knowing and willful violation of the Act indicates that "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976). Such a violation may be established "by proof that the defendant acted deliberately and with knowledge" that an action was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). In *Hopkins*, the court found that an inference of a knowing and willful violation could be drawn "from the defendants' elaborate scheme for disguising their . . . political contributions . . ." *Id.* at 214-15. The court held further that willfulness did not require proof that a defendant "had specific knowledge of the regulations" or "conclusively demonstrate" a defendant's "state of mind," if there were "facts and circumstances from which the jury reasonably could infer that [the defendant] knew her conduct was unauthorized and illegal." *Id.* at 213 (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)).

Carper prepared and cashed checks drawn on AWPAC's account without authorization and deposited cash proceeds from the scheme into her personal bank accounts, thus mixing or commingling committee and personal funds in violation of both 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15. Her efforts to conceal the scheme by omitting the unauthorized checks from internal reports the Committee used to prepare its Commission disclosure reports and by making false entries in the electronic ledger concerning some of the checks further demonstrate that she knew her actions were unauthorized and illegal. Accordingly, we recommend that the Commission find reason to believe that Cora Carper knowingly and willfully violated

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2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15,<sup>5</sup> and enter into pre-probable cause conciliation with Carper.

<sup>5</sup> The Complaint alleges that Carper's surreptitious embezzlement prevented it from filing accurate disclosure reports with the Commission. Carper was neither the registered treasurer nor an assistant treasurer of AWPAC. The Act and Commission regulations impose liability only on a committee's treasurer (or in some cases, an assistant treasurer) for failing to file accurate disclosure reports. 2 U.S.C. §§ 434(a)-(b), 432(c); 11 C.F.R. §§ 104.1, 102.7, 102.9, 104.14. Therefore, we make no recommendation that Carper violated any reporting requirement under the Act.

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IV. RECOMMENDATIONS

1. Find reason to believe that Cora Carper knowingly and willfully violated 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15.
2. Enter into pre-probable cause conciliation with Cora Carper prior to a finding of probable cause to believe.
3. ---
4. ---
5. Approve the attached Factual and Legal Analysis.
6. Approve the appropriate letter.

Anthony Herman  
General Counsel

Date: 01/11/13

BY: [Signature]

Daniel A. Petalas  
Associate General Counsel for  
Enforcement

[Signature]  
Susan L. Lebeatix  
Assistant General Counsel

[Signature]  
Dawn M. Odrowski  
Attorney

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Attachments:

A. Indictment of Cora Carper

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KNO: USAO 2012R00530

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

CORA CARPER,

Defendant

CRIMINAL NO.

(Embezzlement from a Labor Union,  
29 U.S.C. § 501(c); Forfeiture, 18 U.S.C.  
§ 981(a)(1)(C); 28 U.S.C. § 2461(c))

GLR  
12 CR 0593

INDICTMENT

COUNTS ONE THROUGH SIX

The Grand Jury for the District of Maryland charges that:

Individuals and Entities

At all times relevant to this Indictment:

1. The International Association of Heat and Frost Insulators and Allied Workers ("Insulators"), headquartered in Lanham, Maryland, was a labor organization engaged in an industry affecting commerce within the meaning of Sections 402(i) and (j) of Title 29, United States Code. The Insulators was an international labor union and represented approximately 21,700 members, who worked in the insulation industry in the United States and Canada. Insulators members paid dues to their local unions, which sent portions of the money collected to the international union.

2. Defendant CORA CARPER ("CARPER") was hired by the Insulators as a receptionist in late 2001 or early 2002.

3. Prior to June 2009, CARPER took over as the Insulators' Political Action Committee ("PAC") fund manager. The PAC fund manager entered PAC fund receipts and

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deposits into a computerized ledger, made deposits into the PAC fund, filled out payment request forms, printed checks for disbursements from the PAC fund, and then received and reconciled monthly PAC fund bank statements against the electronic ledger. All checks that were printed by the PAC fund manager already included electronic signatures from the president and treasurer.

#### PAC Fund

4. The Insulators maintained a PAC fund, which was funded by voluntary contributions of Insulators' members. The PAC fund was used solely for political contributions and legal and filing fees associated with the PAC. The PAC fund was not used for any general operating expenses, travel expenses, or party cash, and no expenses chargeable to the PAC fund were permitted to be paid in cash. All PAC fund activity was documented in a computerized file that included the name, date, purpose, and check number for each receipt to and disbursement from the PAC fund.

5. In order to facilitate the purposes of the PAC fund, the Insulators maintained a PAC fund bank account. The only authorized signatories on the PAC fund bank account were the Insulators' president and treasurer. All legitimate expenses from the PAC fund were paid by checks drawn on the PAC fund bank account.

6. Only the Insulators' president, treasurer, PAC fund director, or local officers had authority to request payments from the PAC fund. When an authorized official made a request, the request was submitted to the PAC fund manager. The PAC fund manager then completed a request form and submitted it to Insulators' international officers for approval. The PAC fund manager did not have authority to issue any checks from the PAC fund that did not have an

associated request form that indicated the payee, purpose, and delivery method of the requested check.

**The Embezzlement Scheme**

7. From at least in or about June 2009 through in or about February 2011, CARPER wrote more than 300 checks to cash from the Insulators' PAC fund bank account totaling approximately \$502,586 for her personal use. CARPER never received any requests for checks to cash from Insulators' officers who had authority to make check requests, and did not have authorization to create and print these checks and did not complete request forms for any of the checks.

8. In furtherance of the scheme, CARPER also made false entries in the memo lines of some of the checks and in the electronic ledger. After writing the checks, CARPER took those checks to the local branch of the bank handling many of the Insulators' accounts—the same branch where she made legitimate deposits into the PAC fund account. CARPER also signed the back of the checks made out to cash underneath where she placed the signature of the Insulators' treasurer. After receiving the cash from the PAC fund, CARPER made numerous cash deposits into her personal bank accounts.

**The Charges**

9. On or about the dates set forth below, in the District of Maryland and elsewhere, the defendant,

**CORA CARPER,**

did embezzle, steal, and unlawfully and willfully abstract and convert to her own use, and the use of another, any of the moneys, funds, securities, property, and other assets of the Insulators, a

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labor organization engaged in an industry affecting commerce, by which she was employed, directly and indirectly; described below for each count, each act of embezzlement constituting a separate count:

COUNT	DATE	EMBEZZLEMENT
1	October 26, 2009	Defendant CARPHER embezzled, stole, and unlawfully and willfully abstracted and converted to her own use \$1,400 of Insulators' money by writing a check to cash from the Insulators' PAC fund bank account.
2	January 21, 2010	Defendant CARPHER embezzled, stole, and unlawfully and willfully abstracted and converted to her own use \$400 of Insulators' money by writing a check to cash from the Insulators' PAC fund bank account.
3	July 6, 2010	Defendant CARPHER embezzled, stole, and unlawfully and willfully abstracted and converted to her own use \$4,200 of Insulators' money by writing a check to cash from the Insulators' PAC fund bank account.
4	October 25, 2010	Defendant CARPHER embezzled, stole, and unlawfully and willfully abstracted and converted to her own use \$3,800 of Insulators' money by writing a check to cash from the Insulators' PAC fund bank account.
5	December 10, 2010	Defendant CARPHER embezzled, stole, and unlawfully and willfully abstracted and converted to her own use \$1,800 of Insulators' money by writing a check to cash from the Insulators' PAC fund bank account.
6	January 3, 2011	Defendant CARPHER embezzled, stole, and unlawfully and willfully abstracted and converted to her own use \$2,500 of Insulators' money by writing a check to cash from the Insulators' PAC fund bank account.

29 U.S.C. § 501(c)

**FORFEITURE ALLEGATION**

The Grand Jury for the District of Maryland further charges that:

1. Pursuant to Federal Rule of Criminal Procedure 32.2, notice is hereby given to the defendant that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), in the event of the defendant's conviction under this Indictment.

2. As a result of the offenses set forth in Counts One through Six of this Indictment, the defendant,

**CORA CARPER,**

shall forfeit to the United States of America all property, real and personal, (a) which was used or intended to be used to commit the offense, or (b) which constitutes and is derived from proceeds traceable to the offense,

3. The property to be forfeited includes, but is not limited to, a sum of money equal to the value of the proceeds of the charged offense, which amount is at least \$502,586.

4. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or

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e. has been commingled with other property which cannot be divided without difficulty.

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

18 U.S.C. § 981(a)(1)(C)  
28 U.S.C. § 2461(c)

*Rod J. Rasnitsin* /ks  
Rod J. Rasnitsin  
United States Attorney

A TRUE BILL.

**SIGNATURE REDACTED**

For person

Date:

*11-14-12*